

News ReleaseNational Labor Relations Board

October 7, 2010

Contact:

Office of Public Affairs 202-273-1991 publicinfo@nlrb.gov www.nlrb.gov

NLRB Case Production in FY 2010: Rising numbers in an eventful year

The National Labor Relations Board issued 315 decisions in contested cases during Fiscal Year 2010 (October 1, 2009 – September 30, 2010), resolving the Agency's oldest pending cases and tackling some of the difficult issues that had deadlocked the Board as it awaited new members.

The year-end numbers represent an increase of more than 20% over the previous year. Moreover, the number of decisions issued increased sharply in the final two months of the fiscal year, suggesting a more productive Board going into FY 2011.

August production was especially high, with 118 decisions issuing in contested cases. One reason: Member Peter Schaumber's term expired on August 27, and there was a strong effort to finalize cases with which he was familiar. Also, new Members who joined the Board in the spring and summer had time to familiarize themselves with the pending cases and participate in decision-making. Finally, priority was given to deciding cases returned by the federal courts following a June 17 Supreme Court ruling that found the Board was not authorized to issue decisions when three of its five seats were vacant.

For 27 months starting in January 2008, the Board was reduced to two members -- Chairman Wilma Liebman and (former Chairman and) Member Schaumber. That era ended in early April 2010 with the swearing-in of Members Craig Becker and Mark Pearce, both recess-appointed by President Obama. In late June, an additional Member -- Brian Hayes – was confirmed by the Senate, as was Member Pearce.

The Board currently comprises four members, all of whom are slated to remain at least until late August 2011, when Chairman Liebman's term expires.

All Board decisions can be found on the Agency's website <u>here</u>. Some highlights of case production in FY 2010 include:

- -- Resolution of the oldest unfair labor practice case at the Board, <u>KenMor Electric</u> <u>Company</u> (formerly known as *Houston Stafford*), a Texas case involving an association of non-union electrical contractors that arrived at the Board in 2001. The Board found that the association violated the Act by maintaining a job application referral system that interfered with the statutory rights of job applicants who were union members and "salts."
- -- Resolution of the oldest election case at the Board, <u>Independence Residences</u>, in which the Board found that a union victory in a 2003 election at a New York home for disabled workers should be certified, notwithstanding a state law that prohibited the employer's use of state funds for union-related activities.
- -- The Board's determination that a union protest was lawful activity in <u>United</u> <u>Brotherhood of Carpenters and Joiners of America, Local Union No. 1506</u>, where union members held large banners announcing labor disputes in front of secondary employers in Arizona.
- -- The Board's determination that a union's practice of requiring a dues objector to lodge objections every year, rather than granting a permanent reduction in dues, was unlawful, in *International Association of Machinists and Aerospace Workers, AFL-CIO*.
- -- The grant of review in a case, <u>Lamon Gasket Co.</u>, that will reconsider a 2007 Board decision (<u>Dana Corp.</u>, 351 NLRB 434). Under <u>Dana</u>, when an employer agrees to voluntarily recognize a union based on signed authorization cards, it may advise employees that they have a 45 day window to file a petition for an election to decertify the union or to support a rival union. If it does not give employees this notice, any contract negotiated with the recognized union will not serve to bar a future election petition during the life of the contract. The Board also <u>invited briefs</u> from any interested parties in the case.
- -- Issued new decisions in 70 of the 96 cases pending in the courts when the Supreme Court issued its decision on the two-member Board's authority in *New Process Steel*. (A list of all the two-member decisions, with status updates, is available here).

Despite the Board's high productivity, the inventory of pending cases rose over the year, from 193 at the beginning of FY 2010 to 264 at the end of it. Among the remaining pending cases are issues related to the immigration status of workers who were victims of unfair labor practices, union access to employer property, electronic posting of Board remedial notices, and compound interest on back pay awards.

"My goal for the coming year is to clear the decks of the oldest cases, which will bring long-awaited resolution to the parties and allow us to move on to new issues," said Chairman Liebman, who was first named to the Board by President Clinton 13 years ago.

The National Labor Relations Board is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions.